

House File 2088 - Introduced

HOUSE FILE _____
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Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act identifying and prioritizing persons authorized to provide
2 instructions and approval regarding funeral arrangements.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 5390YH 82
5 jr/rj/8

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1 1 Section 1. NEW SECTION. 156.17 FUNERAL ARRANGEMENTS ==
1 2 AUTHORIZED PERSONS.
1 3 1. A funeral director licensed pursuant to this chapter or
1 4 operator of a cremation establishment licensed pursuant to
1 5 this chapter shall consult with and may reasonably rely upon
1 6 an authorized person when making funeral arrangements for a
1 7 decedent including but not limited to embalming, cremation,
1 8 funeral services, and the disposition of human remains. A
1 9 funeral director, operator of a cremation establishment, and
1 10 attorney in fact shall have the same protection from criminal
1 11 prosecution and civil liability, or professional disciplinary
1 12 action as provided for in section 144B.9.
1 13 2. For purposes of this section, "authorized person"
1 14 means, in the absence of a contrary court order, any available
1 15 member of the following classes of persons, in the order of
1 16 priority listed:
1 17 a. The attorney in fact designated in a decedent's durable
1 18 power of attorney for health care pursuant to chapter 144B.
1 19 b. The surviving spouse of the decedent if not legally
1 20 separated from the decedent.
1 21 c. The decedent's surviving adult children. If there is
1 22 more than one adult child, any adult child who can confirm in
1 23 writing the notification of all other adult children may serve
1 24 as the authorized person, unless the funeral director or
1 25 cremation establishment receives any objection from another
1 26 adult child. Alternatively, a majority of the surviving adult
1 27 children of the decedent whose whereabouts are reasonably
1 28 ascertainable may jointly serve as the authorized person.
1 29 d. The surviving parents of the decedent whose whereabouts
1 30 are reasonably ascertainable.
1 31 e. The decedent's surviving adult grandchildren. If there
1 32 is more than one adult grandchild, any adult grandchild who
1 33 can confirm in writing the notification of all other adult
1 34 grandchildren may serve as the authorized person, unless the
1 35 funeral director or cremation establishment receives any
2 1 objection from another adult grandchild. Alternatively, a
2 2 majority of the surviving adult grandchildren of the decedent
2 3 whose whereabouts are reasonably ascertainable may jointly
2 4 serve as the authorized person.
2 5 f. An adult sibling of the decedent. If there is more
2 6 than one adult sibling, any adult sibling who can confirm in
2 7 writing the notification of all other adult siblings may serve
2 8 as the authorized person, unless the funeral director or
2 9 cremation establishment receives any objection from another
2 10 adult sibling. Alternatively, a majority of the surviving
2 11 adult siblings of the decedent whose whereabouts are
2 12 reasonably ascertainable may jointly serve as the authorized
2 13 person.
2 14 g. A surviving grandparent of the decedent. If there is
2 15 more than one grandparent, any grandparent who can confirm in
2 16 writing the notification of all other grandparents may serve

2 17 as the authorized person, unless the funeral director or
2 18 cremation establishment receives any objection from another
2 19 grandparent. Alternatively, a majority of the surviving
2 20 grandparents of the decedent whose whereabouts are reasonably
2 21 ascertainable may jointly serve as the authorized person.
2 22 h. Another adult person in the next degree of kinship in
2 23 the order named by law to inherit the estate of the decedent
2 24 under the rules of the inheritance for intestate succession.
2 25 i. The county medical examiner, if responsible for the
2 26 decedent's remains.
2 27 3. A funeral director may await court order before
2 28 finalizing the funeral arrangements if the funeral director is
2 29 aware of a dispute between the authorized person or persons
2 30 who would be in a priority position under the definition of
2 31 authorized person pursuant to this section and the executor
2 32 named in the decedent's will or a personal representative
2 33 appointed by a court, or is aware of a dispute among
2 34 authorized persons within the same priority classification.

2 35 EXPLANATION
3 1 This bill provides a list of specified individuals who may
3 2 be regarded as authorized persons with whom a funeral director
3 3 or operator of a cremation establishment shall consult with in
3 4 making funeral arrangements. The authorized persons are
3 5 listed within the bill in priority order. First priority is
3 6 assigned to the attorney in fact specified by a decedent in a
3 7 durable power of attorney for health care, followed by a
3 8 spouse, children, other family members, individuals entitled
3 9 to inherit pursuant to the state's intestacy laws, and the
3 10 county medical examiner. This list grants priority to the
3 11 attorney in fact designated in a decedent's durable power of
3 12 attorney for health care pursuant to Code chapter 144B and
3 13 incorporates the current list of authorized persons listed in
3 14 645 IAC 100.1(156).
3 15 LSB 5390YH 82
3 16 jr/rj/8